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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Federation of Western Thrace Turks in Europe, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The pending question of the freedom of association of the Turkish community in Western Thrace, Greece and non-execution of the judgments of the European Court of Human Rights

Although the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities has turned its twenty-fifth anniversary, persons belonging to minorities in many European countries including Greece continue to be targets of discrimination in social and public life. Minority rights challenges experienced by members of national or ethnic and religious minorities in many European countries cause social and political marginalization.

Under the 1923 Lausanne Peace Treaty, Turkish community in Western Thrace, which has been officially recognized as Muslim minority in Thrace by Greek authorities, has an equal right with the non-Muslim minority in Turkey to establish, manage and control at their own expense, any charitable, religious and social institution, any school and other establishment for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

The first association established by the Turkish Minority is Xanthi Turkish Union; of which first name was "House of Turkish Youth of Xanthi" established in 1927 and registered by Xanthi Court of First Instance. Not only Xanthi Turkish Union, but Komotini Turkish Youth Union established in 1928, Western Thrace Turkish Teachers' Union established in 1936 were legally registered associations with the "Turkish" word in their titles. The signboards of the associations and the minority schools in the region included the word "Turkish" and the names of the associations and minority schools were written both in Greek and Turkish.

The deteriorating relations between Turkey and Greece had an adverse effect in the situation of the Turkish community in Greece. Although Turkish associations were officially registered and continued to operate since 1920's, the Greek government declared in 1983 that there were no Turks in Greece and claimed that the members of Muslim minority are Greek Muslims. Xanthi Turkish Union, Komotini Turkish Youth Union and Western Thrace Turkish Teachers' Union were dissolved in 1986 by local courts and the Supreme Court decided the dissolution of the associations on the ground that the statute of the association that was contrary to public policy and constituted a threat to democratic society with an aim to promote the idea that there was an ethnic minority with the word Turkish which refers to citizens of Turkey and could not be used to describe citizens of Greece.

The ban on the associations; namely, the "Western Thrace Turkish Teacher's Union", the "Komotini Turkish Youth Association" and the "Turkish Union of Xanthi" still continues today. Following the exhaustion of the internal remedies, there are three cases which have been brought before the European Court of Human Rights concerning the dissolution and refusal to register associations established by the persons belonging to Turkish Minority of Western Thrace, Greece:

1. Evros Prefecture Minority Youth Association: The Case of Bekir-Ousta and others (35151/05), judgment of 11/10/2007, final on 11/01/2008
2. Xanthi Turkish Union: The Case of Tourkiki Enosi Xanthis and others (26698/05), judgment of 27/03/2008, final on 29/09/2008
3. The Cultural Association of Turkish Woman in the Prefecture of Rodopi: Emin and others (34144/05), judgment of 27/03/08, final on 01/12/2008

These three cases concern the dissolution or refusal to register the applicant associations by the competent courts on the sole basis of a suspicion that the applicants intended to promote the idea that an ethnic minority existed in Greece. The Court held unanimously that there had been a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights in both cases, which concern associations founded by persons belonging to the Muslim minority of Western Thrace.

Further to the European Court of Human Rights' judgments, the applicants requested the cancellation of the decision dissolving them (the case of Xanthi Turkish Union) or submitted a new registration of their associations before the national courts. The applications have been declared inadmissible on the ground that it is not possible to cancel a domestic decision which has become final in the context of non-contentious procedure following a judgment of the ECtHR, and that domestic law does not provide, in civil matters, for the reopening of proceedings following a finding of violation by the ECtHR.

Amendment to Article 758 of the Code on Civil Procedure which would allow the applicants to have their applications requesting their associations' registration or the reversal of the judgments ordering the dissolution of their associations was, initially, debated in the Greek parliament on 19 September 2017. Upon severe and harsh reactions of the junior coalition partner Independent Greeks (ANEL) and no support by other opposition parties of New Democracy and Democratic Alliance, the Ministry of Justice decided to withdraw the draft legislation[1]. Withdrawal of the draft legislation caused a great disappointment among members of the Turkish community of Western Thrace. Anti-democratic, even racist explanations by junior coalition partner ANEL and prejudgments against members of the Turkish community prevented the draft legislation to be discussed in the Greek parliament[2].

Following amendments in the first draft by the Ministry of Justice, on October 10, 2017, the amendment was discussed in the Greek parliament and coalition parties SYRIZA and ANEL and some MPs from opposition parties voted in favour of the amendment. The legislative procedure of adoption of has been concluded by the Greek parliament with the adoption of Law No. 4491/2017 on October 10, 2017.

The admissibility of an application of revocation or amendment following an ECtHR judgment to be issued in the future is now subject to the terms and restrictions provided in the relevant provisions concerning the protection of national security, public order, and the protection of rights and freedoms of others and international conventions implying the Treaty of Lausanne which officially refers to the religious affiliation of the Turkish community in Western Thrace with the term "Muslim minority in Thrace".

Although the ECtHR ruled that even assuming that the true aim of the three associations had been to spread the idea that there was an ethnic Turkish minority, this did not alone amount to a threat to democratic society or contrary to public policy, Law No. 4491/2017 introduced restrictions provided in the relevant provisions concerning the protection of national security, public order, interests of third parties and international conventions.

As a recent development, relevant domestic court in Komotini did not approve the request of the Rhodope-Evros EPATH Graduated Teachers' Association to change its name as "Rhodope-Evros Minority Schools Turkish Curriculum Teachers' Association" in accordance with the decision taken by the General Assembly on November 18, 2017. While the domestic court approved amendments in statutes of the association, it did not allow the association to change its name with the word including "Turkish" in its name[3].

After the adoption of the new law, Xanthi Turkish Union applied to the domestic court with the demand to have the decision regarding the case it has won at the ECtHR implemented by Greece and official legal entity of the association returned. The Thrace Court of Appeal will hear the case on 9 February 2018. The Cultural Association of Turkish Woman in the Prefecture of Rodopi and Evros Minority Youth Association will apply to the domestic courts for re-opening of the legal procedures and ask for the annulment of the domestic court's decision of non-registration of their associations.

We would like to note that the Council of Europe's Committee of Ministers closely follows the developments about the implementation of Court's judgments under the name of Bekir-Ousta group of cases against Greece since 2008. At its

1 http://www.gundemgazetesi.com/haber/detay/3450
2 http://www.gundemgazetesi.com/haber/detay/3458
3 http://www.gundemgazetesi.com/haberyunanistan/detay/3676

last examination held on 5-7 December 2017, the Committee decided to resume consideration of these cases in case re-opened proceeding are delivered under the mentioned law adopted in October 2017. The Parliamentary Assembly of the Council of Europe recently reiterated its call on Greece to ratify the European Charter for Regional Minority Languages and the Framework Convention for the Protection of National Minorities and fully implement the judgments of the European Court of Human Rights to enhance the rights of minorities in the resolution adopted Resolution 2203 (2018) on the progress of the Assembly's monitoring procedure (January-December 2017) and the periodic review of the honouring of obligations by Estonia, Greece, Hungary and Ireland[4].

Recalling the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, we kindly ask the Government of Greece to fully implement the judgments of the European Court of Human Rights in order to ensure that right to freedom of association for persons belonging to the Turkish community are protected.

4 http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24493&lang=en